

COUNTY OF SUFFOLK



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DEPARTMENT OF LAW

April 11, 2017

Hon. Arlene R. Lindsay, U.S.M.J.
United States District Court, Eastern District of New York
Long Island Courthouse
100 Federal Plaza
Central Islip, New York 11722

Re: Calvente v. County of Suffolk
CV15-2024 (JFB)(ARL)

Dear Judge Lindsay:

This office represents the Suffolk County Correctional Facility, defendant in this civil rights action pursuant to 42 U.S.C. §1983.

On behalf of defendant, I write in connection with the Order of Judge Bianco dated April 6, 2017, which referred plaintiff pro se's summary judgment motion to Your Honor for a Report and Recommendation.

Plaintiff seeks summary judgment on the basis that defendant purportedly failed to file a final Narrative Statement. He does not contend that there is no material issue of fact in this case and has not filed a Statement Pursuant To Local Rule 56.1. In essence, he argues that summary judgment should be granted as a sanction against defendants for not filing a Final Narrative Statement.

There is no basis for sanctioning defendant by granting summary judgment since defendant has complied with the scheduling orders of the Court. As set forth in our letter to Judge Bianco dated November 3, 2016 (docket entry no. 42)(copy annexed), defendant moved before Your Honor for an extension of time to submit a Final Narrative Statement prior to the filing of the summary judgment motion, and that motion was outstanding at the time plaintiff filed his motion. The Court did not direct the filing of a Final Narrative

Statement, although it did direct the filing of a Joint Pretrial Order. The Joint Pretrial Order was approved for filing on February 17, 2017.

Because plaintiff *pro se* has not filed a Statement Pursuant To Local Rule 56.1, does not contend that there is no material issue of fact herein, and defendant has complied with the Orders of the Court, defendant respectfully requests that summary judgment should be denied.

Respectfully submitted,

Dennis Brown
Suffolk County Attorney

/s/ Arlene S. Zwillling
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